

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE:)	
)	
FRANCIS J. BRENNAN)	
SSN: XXX-XX-5683)	CASE NO. 13-53469
)	CHAPTER 13
AND)	JUDGE J. E. HOFFMAN, JR.
)	
TAMY L. BRENNAN)	
SSN: XXX-XX-6458)	
)	
Debtors.)	

MOTION TO MODIFY CHAPTER 13 PLAN PURSUANT TO L.B.R. 3015-2(b)

Now come the above-named debtors who respectfully move the Court to modify their Chapter 13 Plan confirmed by this Court on July 11, 2013, in the following respects:

1. That the plan payment be decreased to \$1,200.00 per month from December 1, 2014, through January 31, 2015;
2. That the payment be \$0.00 for February 2015;
3. That the plan payment be increased to \$2,625.00 starting March 1, 2015, for the remainder of the plan;
4. That the dividend to the unsecured creditors remain at 25 percent;
5. That notwithstanding the proposed dividend to unsecured creditors the debtor shall make plan payments as required by 11 USC §1325 for the applicable commitment of 36 or 60 months and the Chapter 13 Trustee is authorized to administratively adjust the proposed dividend to unsecured creditors accordingly.

MEMORANDUM IN SUPPORT

The debtors' post office address is 4114 Township Road 214, Toronto, Ohio, 43964. On April 30, 2013, debtors filed a plan for relief under Chapter 13 of the Bankruptcy Code. On July 11, 2013, this Court confirmed the Chapter 13 Plan of the debtors. Mr. and Mrs. Brennan have moved to modify their plan four times: once to temporarily lower their payment due to a drop in income [Doc.

32]; once to permanently lower their Plan payment once the bar date had passed [Doc. 44]; once to add their mortgage payment to the Plan payment [Doc. 64]; and once to permanently lower their payment due to a drop in household income that they anticipate will last for the remaining duration of the Plan [Doc. 71].

When Mr. and Mrs. Brennan had filed the last Motion to Modify, the Trustee had filed an Objection. While the parties were trying to resolve the objection, Mr. Brennan was injured at work in November 2014 and will be on short-term disability until at least mid-January. Once he returns to work, he will not receive a paycheck for 2 pay periods (4 weeks). In early December, the Trustee and the debtors resolved the objection, and believed it would be clearer for all parties if there was an agreed order on the Motion and Objection with the debtors filing a new motion to modify after the agreed order was entered. The Court entered the Agreed Order [Doc. 78] on December 15, 2014; accordingly, Mr. and Mrs. Brennan are now filing the Motion to Modify to address this temporary change in their income due to Mr. Brennan's injury.

Mr. Brennan is currently receiving \$1,030.00 per week in short-term disability. He still must pay his union dues of \$100.00 per month and his disability insurance for \$110.00 per month. He is scheduled to see the doctor in mid-January and anticipates returning to work in January or February. However, once he returns to work, he will not receive a pay for two pay periods, essentially 4 weeks after he returns. Also, he will not be receiving any short-term disability once he resumes working. Mr. Brennan is attempting to set aside some of his short-term disability for the month of February – they anticipate that they will not have any income for that month. Accordingly, Mr. and Mrs. Brennan are moving to reduce the Chapter 13 payment to \$1,200.00 per month for December and January, \$0.00 for February, and then increasing the payment to \$2,625.00 per month starting March 2015 for the remainder of the Plan. This modification will not affect the dividend to the unsecured creditors; it will remain at twenty-five (25) percent.

WHEREFORE, Debtors respectfully request that the Court grant their Motion to Modify in accordance with the aforementioned provisions.

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NOTICE TO ALL PARTIES IN INTEREST

The Debtors have filed papers with the Court to modify their plan.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one.

If you do not want the court to grant the relief sought in the motion/objection, then on or before **twenty-one (21) days** from the date set forth in the certificate of service for the motion/objection, you must file with the court a response explaining your position by mailing your response by regular U.S. Mail to Clerk, United States Bankruptcy Court, 170 North High Street, Columbus, Ohio, 43215, OR your attorney must file a response using the court's ECF System. If you mail your response, you must mail it early enough so that the Court will **receive** it on or before the date stated above.

You must also send a copy of your response either by 1) the court's ECF System or by 2) regular U.S. Mail to:

Kelly Gene Kotur
407 Howard Street
Bridgeport, OH 43912

and all of the parties listed in the service list upon whom the attorney for the movant served this Motion.

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the motion/objection and may enter an order granting that relief without further hearing or notice.

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing *Motion to Modify Chapter 13 Plan Pursuant to L.B.R. 3015-2(b), Notice and Exhibit* were served this date electronically through this Court's ECF system at the email address registered with the Court on the parties whose names and addresses are listed below as and for NOTICE that the attached request for relief would be filed.

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The undersigned certifies that a copy of the foregoing *Motion to Modify Chapter 13 Plan Pursuant to L.B.R. 3015-2(b), Notice and Exhibit* were served this date by first-class mail, postage prepaid, on the parties whose names and addresses are listed below as and for NOTICE that the attached request for relief would be filed.

Francis J. Brennan
Tamy L. Brennan
4114 Township Road 241
Toronto, OH 43964

Creditors listed on attached Exhibit B

Dated: December 17, 2014

/s/Kelly Gene Kotur
Kelly Gene Kotur

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